



Diego Hernandez <diego05h@gmail.com>

Diego Hernandez investigation

Kevin Lafky <klafky@lafky.com>
To: Diego Hernandez <diego05h@gmail.com>

Mon, Dec 21, 2020 at 3:17 PM

fyi:

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From: **Kevin Lafky** <klafky@lafky.com>
Date: Mon, Dec 21, 2020 at 3:17 PM
Subject: Re: Diego Hernandez investigation
To: Sandmeyer Jackie <Jackie.Sandmeyer@oregonlegislature.gov>
Cc: Ryan, Sarah J. (Portland) <sarah.ryan@jacksonlewis.com>

Jackie, thank you; please let me know: one, whether we can now assume that these new persons will not be treated as "rule 27 complainants" under the rule, and two, whether there is any other authority within the Legislature to which we can request review of your determination or if your decision is the final internal determination on this point?

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On Mon, Dec 21, 2020 at 12:43 PM Sandmeyer Jackie <Jackie.Sandmeyer@oregonlegislature.gov> wrote:

Mr. Lafky,

Rep. Hernandez has been provided a notice of conduct report and/or conduct complaint from my office for any reports resulting in a Rule 27 investigation. The allegations within those reports are what Ms. Ryan has been contracted to investigate.

It is often the case that a Respondent will get an opportunity to provide an additional interview at the tail end of an investigation to ensure that they get an opportunity to respond to any information that may arise throughout the course of interviews with parties. This may include information provided by third party witnesses, impacted parties, witnesses to related behavior or the Representative himself.

If at any point a new Rule 27 complainant were to be added to the investigation, the Representative would receive a notice from my office informing him of the impacted party's name as well as the nature of the complaint.

To both ensure privacy when possible as well as mitigate instances of retaliation (by any party of the case or the general public) the Legislature asks that Ms. Ryan takes steps to collect, review, corroborate and assess credibility of documents related to complaints. This allows for parties and witnesses to provide information and documentation without fear of distribution or dissemination to further the integrity and effectiveness of the investigation. To my knowledge, the same allowance to decide what is shared and to whom has been exercised by the Representative.

The Representative is free to decline an additional interview. As I tell all parties, he's welcome to reach out to me with any questions regarding how his limited participation might create a barrier for the investigator in collecting any information he might have, but that he gets to decide what his participation looks like and what information he'd like to share. My office's priority regarding parties is ensuring informed choice in how they navigate their options within Rule 27.

I will not be asking Ms. Ryan to provide the documents to you or the Representative. Similarly to how this type of request is handled when other parties to a case inquire.

My best,
Jackie

Jackie Sandmeyer
Acting Legislative Equity Officer,
Equity Office
Desk: 503-986-1625
Mobile: 503-709-8848

From: Kevin Lafky <klafky@lafky.com>
Sent: Monday, December 21, 2020 9:05 AM
To: Sandmeyer Jackie <Jackie.Sandmeyer@oregonlegislature.gov>
Cc: Ryan, Sarah J. (Portland) <sarah.ryan@jacksonlewis.com>
Subject: Diego Hernandez investigation

Ms. Sandmeyer, I represent Rep. Diego Hernandez. Sarah Ryan (copied here) is conducting an investigation pursuant to Rule 27. Ms. Ryan has already interviewed Rep. Hernandez once. Ms. Ryan has requested an additional interview of Rep. Hernandez, in part because she has identified two additional persons who have circumstances that she wants to investigate.

I've asked Ms. Ryan to provide me with any documents that have caused her to identify these new persons. Rule 27 has a broad definition of what constitutes a

"complaint" and my interpretation of that is that we are entitled to review any documents that have caused an investigation to be expanded to additional persons.

Ms. Ryan refuses to say whether there are such documents and refuses to provide any such documents.

I am asking the Legislature to instruct Ms. Ryan to provide us with the documents so that Rep. Hernandez's due process rights and rights under Rule 27 are honored.

Thank you for your prompt attention to this request.

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